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Before the  
Federal Communications Commission  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
DEPT. OF THE SECRETARY

In the Matter of

Federal-State Joint Board on  
Universal Service

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CC Docket 96-45  
(Report to Congress)

COMMENTS

MCI Telecommunications Corporation

Mary J. Sisak  
Mary L. Brown  
1801 Pennsylvania Ave., N.W.  
Washington, DC 20006  
(202) 887-2605

Its Attorneys

January 26, 1998

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**COMMENTS**

MCI Telecommunications Corporation (MCI) hereby responds to the Commission's Public Notice released on January 5, 1998, in which the Commission seeks comment in connection with the Report to Congress on Universal Service.

In the Report to Congress, the Commission must file a detailed description of the extent to which the Commission's universal service order<sup>1</sup> is consistent with the Act. Specifically, the Commission must address, and asks parties to comment on, the definitions of "information service," "local exchange carrier," "telecommunications," "telecommunications service," "telecommunications carrier," and "telephone exchange service" and the impact of those definitions on universal service; the application of those definitions to mixed or hybrid services and the impact on universal service; who is required to contribute to universal service; who is eligible to receive universal service; and the

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<sup>1</sup> Federal-State Joint Board on Universal Service, Report and Order, CC Docket No. 96-45, FCC 97-157, 12 FCC Red 8776 (rel. May 8, 1997) (Order).

Commission's decisions regarding the percentage of universal service support provided by Federal mechanisms and the revenue base from which such support is derived.

As an initial matter, the Commission has not yet decided some of the most important issues concerning universal service namely, the selection of the cost model that will be used to determine support for high cost areas and the determination of the size of the high cost subsidy. MCI urges the Commission to decide these issues expeditiously.

In addition, as shown in the Petition for Reconsideration or Clarification of the Commission's universal service order filed by MCI, a number of aspects of the Order do not meet the requirements of the Act and will cause the federal fund to be greater than necessary. The following issues were raised by MCI.

1. The Commission should select one cost model that will be used to set federal support for all states. In addition to making federal support "unpredictable," allowing states to submit their own cost model to determine federal universal service support will be burdensome; will allow states to "game" the process to maximize federal support; and could cause state support to be greater than necessary.
2. If the Commission, nevertheless, allows the states to submit their own cost models, it must impose requirements and parameters that overcome the incentive to choose a cost model that produces results greater than the funding required. For example, the Commission's Order lists ten criteria that all cost models must meet including a requirement that a reasonable allocation of joint and common costs must be assigned to supported services, and that the model must allow modification of such factors as fill factors, input costs, overhead adjustments, retail costs, structure sharing percentages, fiber-copper crossover points, and terrain factors. The Commission must specify reasonable ranges for each of these factors to be used by the states. In addition, the Commission should require that

the cost of any state universal service programs supported through carrier assessments must be recovered through intrastate rates only.

3. The Commission must make clear that ILECs must reduce interstate access charges by at least an amount equal to federal universal service support that they receive.

4. With respect to rural carriers, the Commission has not complied with the Act because it did not adopt a specific timetable for implementing the use of forward-looking economic cost for rural carriers. To bring its Order into compliance, the Commission must establish a definite time frame for determining universal service support for rural carriers based on forward-looking economic cost. Specifically, the Commission should order the use of forward-looking economic cost for rural carriers beginning on January 1, 2001, phased-in over three years.

5. In the Order, the Commission finds that a carrier's share of support to the federal high cost and low-income funds will be based on interstate and international end-user revenues. Since contributions to the federal fund will not be based on intrastate revenues, the Commission should clarify that states cannot include carriers' interstate and international revenues in determining assessments for state funds.

6. The Commission must reconsider the method it has adopted for LEC flow through of their universal service assessments to access customers. For price cap carriers, the Commission has allowed LECs to take exogenous adjustments in the baskets which have end user revenues-- the common line, trunking, and interexchange baskets. To prevent non-end user services in the trunking baskets from being raised to pay for universal service, the Commission prohibited LECs from

increasing the Service Band Indexes (SBIs) for categories which have no end user revenues<sup>2</sup>. Although MCI agrees with the Commission's decision to prevent recovery of LEC universal service assessments from non-end user services in the trunking basket, the Commission also must adopt a similar restriction in the common line basket, in which the only end user revenues are subscriber line charges (SLCs), and change the Part 69 rules to include payments to the universal service fund in the common line revenue requirement. Otherwise, the universal service assessment can be flowed through to the carrier common line (CCL) rates and, starting January 1, 1998, the pre-subscribed interexchange carrier charges (PICCs)-- and LECs will not need to raise their SLCs to reflect their assessment. The effect of the Commission's treatment is that the LECs' universal service obligations will be imposed on IXCs by means of an implicit subsidy, which the IXCs must try to recover from end users. Thus, the Commission should change its rules so that SLCs are allowed to rise, subject to their existing caps, to reflect the LECs' universal service assessments.

7. There is no justification for different Lifeline and Linkup eligibility and certification standards for different states. In the past, allowing the states to establish eligibility criteria may have been appropriate because federal funding for Lifeline was contingent upon state funding and, therefore, the Commission did not adopt eligibility criteria. However, now that the Commission has adopted eligibility criteria, it should apply to all consumers in all states. In addition, all consumers should be required to "certify" their eligibility to receive federal Lifeline and Linkup assistance in all states; the method of certification should be specified by the Commission; and it should be something more than the "self certification" adopted by the Commission for consumers in states without matching support.

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<sup>2</sup> The Commission identifies these categories as tandem-switched transport, interconnection charge, and tandem switch signaling service.

8. The Commission should reconsider its decision to prohibit eligible telecommunications carriers receiving universal service support from disconnecting Lifeline service for non-payment of toll charges (DNP) because it is bad policy. Allowing low-income consumers to incur long-distance charges that they can refuse to pay without fear of any consequences will only lead to increased uncollectibles for interexchange carriers which will drive up the cost of long distance services for all consumers-- including financially responsible low-income consumers who pay their bills. If, however, the Commission refuses to reconsider the denial of DNP, then LECs should be required to inform IXCs of the identity of Lifeline customers so that appropriate deposit and fraud parameters could be implemented for these consumers.

9. In the Order, the Commission states that to the extent carriers seek to pass all or part of their contributions on to their customers in customer bills, it would be misleading for a carrier to characterize its contribution as a surcharge. The Commission should clarify that this language is merely intended to restrict any “misleading” statements and that the Commission did not intend to try to restrict the use of the word “surcharge” by carriers when structuring their rates or to prejudge whether any particular language used by carriers in bills would be considered “misleading.” Any other meaning by the Commission would clearly be an unconstitutional restriction on carriers’ first amendment rights.

10. The Commission should allow the use of loops with load coils if it is the low cost forward-looking technology for provision of modem capable voice grade loops.

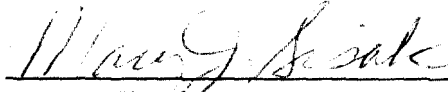
These issues, and many others, are currently pending before the Commission. In order to assist the Commission in reporting on the status of universal service to Congress, attached hereto is a list of the issues pending on reconsideration and a list of the issues decided by the Commission in

the Fourth Order on Reconsideration in CC Docket No. 96-45, Report and Order in CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72, FCC 97-420 (rel. December 30, 1997)

Respectfully submitted,

MCI TELECOMMUNICATIONS CORPORATION

By:

A handwritten signature in cursive script, appearing to read "Mary J. Sisak", written over a horizontal line.

Mary J. Sisak

Mary L. Brown

1801 Pennsylvania Ave., N.W.

Washington, DC 20006

(202) 887-2605

Dated: January 26, 1998

## **ISSUES PENDING ON RECONSIDERATION**

1. Whether carriers can change contracts to impose universal service charges on contract customers.
2. Delays in USF support may be caused by the state and may constitute a taking.
3. Whether the Commission has the authority to extend the reach of the USF support mechanism to encompass revenues from international services.
4. Universal Service Support should be given to all access connections provided by an incumbent LEC in high cost areas.
5. Whether CMRS providers are eligible carriers.
6. Whether CMRS providers must contribute to universal service where CMRS is not a substitute for the incumbent LEC.
7. Whether one forward-looking cost model is appropriate for all carriers.
8. The FCC should clarify if and how state developed studies will be updated.
9. The FCC should not require a state-submitted federal study to mirror a state's intrastate universal service study.
10. Whether the FCC's decision to fund 25% of high cost support as determined by the model is sufficient.
11. Whether entities that provide interstate telecommunications services pursuant to private contracts should make payments to USF in the same manner as common carriers.
12. What evidence must states present to demonstrate that they need a larger payment from the federal fund to satisfy their USF needs.
13. Which carriers may receive support for health-care services.
14. Whether universal service support should be portable.
15. Whether carriers reselling services purchased from carriers not receiving support for the same facilities should be eligible to receive subsidies.
16. Whether discounts for schools, libraries, and health care providers are consistent with the Act.



17. Whether Universal Service support for internal connections and Internet services violates Sections 254 (c)(3), (h) (1) (b), and (h) (2) (a) of the telecommunications Act of 1996.
18. Whether the federal school lunch program should be the basis for determining discounts for rural libraries.
19. Whether non-profit entities should be required to contribute to the universal service fund.
20. Whether the Commission has exceeded its authority in the rulemaking process by mandating local management activities for schools to receive federal universal service support.
21. Whether information provided to the fund administrator remains proprietary.
22. Lifeline eligibility standard should be modified to allow widespread enrollment.
23. In regards to Lifeline and Linkup, conditioning USF support payments on eligible telecommunications carrier status is inappropriate and will impede the overall intent of the universal service program.
24. Whether States can waive service deposits for lifeline customers without requiring subscription to toll blocking.
25. Whether interexchange carriers should be forced to bear through “wholesale” access charges all the incumbent local exchange carriers’ “retail” USF assessment.
26. Whether the SLC cap on multi-line business lines and non-primary residential lines should be raised to allow for full recovery of all ILEC retail marketing expenses from end users.
27. Whether the Commission has diverged from the statute by not making specific provisions for universal service distributed to insular areas.
28. It should be explicit in the Rules that an agency with regulatory authority over an area and/or a carrier serving an area should be able to designate eligible carriers as long as they meet the criteria established by the Act, even if the agency does not meet the Act’s definition of a “state commission.”
29. When a state agency replaces one designated carrier with another the new carrier should be able to receive its USF support for the newly acquired lines based upon an analysis of the average cost of all the lines.
30. Whether Hawaii is a rural area.
31. Support for exchanges acquired after May 7, 1997 should not be limited.

32. Whether non rural LECs providing service in Alaska or an insular area should be required to calculate their costs pursuant to a proxy model.
33. The Commission should require eligible carriers to offer Universal Service on a stand-alone basis in order to receive support.
34. Whether the implementation of the Order should be postponed until 1) part 36 jurisdictional cost separation rules have been reformed, 2) the Commission establishes with the states the mechanisms to fund USF, 3) the Commission has considered all the concerns raised in the Petitions for Reconsideration.
35. Whether USF contributions should be recovered as explicit end-user surcharges, not hidden subsidies.
36. Whether universal service support should be used to reduce local rates.
37. The Commission should clarify that the utilization of unused funds for calendar years 1998 and 1999 allocated to provide discounts for schools and libraries to ensure that intrastate jurisdictional revenues do not revert to the FCC.
38. The Commission should clarify the current distribution scheme for funding discounts for schools and libraries and provide guidelines that will ensure equity in the distribution of the funds among the states.
39. The Commission should clarify that the funds collected from customers as a pass through of a carrier's required universal service support contribution are not to be included in the amount of end user telecommunications revenues used to calculate the carrier's required contribution.
40. Whether the extent to which the FCC has chosen to codify and interpret Section 214 (e) of the statute is overly prescriptive and leads to confusion and debate as to the meaning of the directives.

## **ISSUES DECIDED ON RECONSIDERATION**

1. Calls to and from a satellite company's fixed-site subscribers, for which such subscribers pay a non-distance and non-usage sensitive rate, constitute local calling for purposes of determining whether a carrier is eligible for federal universal service support.
2. Mobile satellite service providers may petition their state commission for permission to receive universal service support for the designated period during which they are completing the network upgrades required to offer access to E911.
3. Bandwidth for voice grade access to the PSTN should be, at a minimum, 300 Hertz to 3000 Hertz.
4. A state commission that is unable to designate a carrier as an "eligible carrier" before Jan. 1, 1998, when that carrier has sought such designation before Jan. 1, 1998, is permitted to file with the FCC a petition for waiver requesting that the carrier receive universal service support retroactive to Jan. 1, 1998.
5. The indexed cap on high cost loop support is retained until all carriers receive support based on a forward-looking economic cost mechanism. The indexed cap does not operate to cap support under the modified DEM weighting or LTS programs.
6. The method of calculating the annual unseparated local switching revenue requirement proposed by NECA is adopted.
7. As with all high cost support, a competitive local exchange carrier will receive the same amount of local switching support formerly received by an incumbent LEC if the competitive LEC begins to serve a customer formerly served by an incumbent LEC receiving local switching support for that customer.
8. DEM weighting and LTS support levels will be adjusted annually to correct errors that may result from the use of projected local switching costs.
9. The procedure by which LTS support will be calculated after 1/1/98 is clarified.
10. An incumbent LEC's continued membership in the NECA common line pool is required for the incumbent LEC or any competitive eligible carrier serving the incumbent LEC's former customers to receive payment of support comparable to LTS in a given service area.
11. Beginning 1/1/98, high cost loop support, DEM weighting assistance and LTS will be portable to any competitive local exchange carrier that has been designated as an eligible carrier.
12. The amount of support that the incumbent LEC will lose depending on whether the competitor provides the supported services using unbundled network elements, wholesale, or neither is clarified.

13. The minimum cap on corporate operations expenses is increased to \$300,000 per year and the limitation formula is changed.
14. Carriers are required to provide only one type of toll limitation service (either toll blocking or toll control) to be designated as "eligible." However, carriers that can provide both must offer qualifying low-income consumers a choice.
15. The PICC for Lifeline customers who elect toll blocking is waived. Support for the PICCs for Lifeline customers who have toll blocking will be provided by the universal service support mechanisms.
16. The implementation of the "lowest corresponding price requirement" for schools and libraries is clarified.
17. Only FCC Form 470 for schools and libraries and Form 465 for rural health care providers must be posted on the website. The entire RFP will not be posted.
18. The procedures for state telecommunications networks to procure supported telecommunications services and apportion discounts for eligible schools and libraries is clarified. State telecommunications networks cannot receive direct reimbursement from the fund for telecommunication services.
19. State telecommunications networks can receive reimbursement from the fund for providing internet access and internal connections to schools and libraries.
20. Eligible schools and libraries must seek competitive bids for all services eligible for discounts to obtain support.
21. The cost of purchasing or building wide area networks to provide telecommunications will not be eligible for universal service discounts.
22. A connection does not constitute an internal connection if it crosses a public right-of-way.
23. How support should be calculated and applied for consortia that include schools and libraries is clarified.
24. Support for internal connections is limited to those essential to providing connections within instructional buildings.
25. A contract signed on or before July 10, 1997, will be considered an existing contract and exempt from the competitive bid requirement for the life of the contract. Contracts signed after July 10, 1997, and before the Schools and Libraries website is fully operational will be eligible for support and exempt from the competitive bid requirement for services provided through 12/31/98. If parties take service under a master contract, the date of execution of the master contract represents the

applicable date for purposes of determining whether the contract is exempt from the competitive bid requirement. These rules also apply to existing contracts for eligible rural health care providers.

26. Eligible school, library and rural health care providers can make minor modifications to a contract that the administrators have approved for funding without completing an additional competitive bid process. Eligible entities are to look to state or local procurement laws to determine whether a proposed contract modification is "minor". Where state and local procurement laws are silent or inapplicable, the "cardinal change" doctrine will be the standard for determining whether the contract modification requires rebidding.

27. Eligible entities seeking to modify a contract without undertaking a competitive bid, must file FCC Form 471 or 466 with the fund administrator. A commitment of funds pursuant to an initial Form 471 or 466 does not ensure that additional funds will be available to support the modified services.

28. Charges incurred for eligible telecommunications services remain the responsibility of the eligible entity.

29. Universal service support will cover all reasonable charges including federal and state taxes, that are incurred by obtaining an eligible telecommunications service. Charges for termination liability, penalty surcharges and other charges not included in the cost of obtaining the eligible service will not be covered.

30. The federal universal service fund will support reduced rates on intrastate services provided to eligible rural health care providers.

31. All telecommunications carriers, including paging carriers, are required to contribute to universal service.

32. Private service providers that provide interstate telecommunications on a non-common carrier basis must contribute to universal service with the following exceptions.

a. systems integrators that do not provide services over their own facilities and are non-common carriers that obtain a de minimis amount of their revenue from the resale of telecommunications are not required to contribute. However, systems integrators that are excluded from contribution are end users for universal service purposes. Therefore, the underlying facilities based carrier must report the revenues received from exempt systems integrators.

b. Broadcasters, including instructional television fixed service licensees, that engage in non-common carrier interstate telecommunications, are not required to contribute to universal service.

c. non-profit schools, colleges, universities, libraries and health care providers do not have to contribute to universal service. However, they will be treated as "end users" for universal service

purposes and the carriers providing telecommunications services to such entities must report the revenues derived from providing service to the exempt entities.

33. Satellite providers that provide interstate telecommunications services or interstate telecommunications to others for a fee must contribute to universal service.

34. Satellite providers are not required to contribute to universal service on the basis of revenues derived from the lease of bare transponder capacity.

35. The de minimis contribution threshold is raised to \$10,000. If a contributor's annual contribution would be less than \$10,000, it will not be required to contribute to universal service. Entities that qualify for the de minimis exemption will be considered "end users" for universal service purposes. Entities that resell telecommunications and qualify for the de minimis exemption must notify the underlying facilities-based carriers from which they purchase telecommunications that they are exempt. The underlying carriers will then include revenues derived from providing telecommunications to these exempt entities on their worksheets.

36. CMRS providers can recover universal service costs from interstate and intrastate services.

37. State support will not affect the level of federal support available to eligible entities.

**CERTIFICATE OF SERVICE**

I, Sylvia Chukwuocha, do hereby certify that the foregoing Comments was served this 26th day of January, 1998, by hand delivery or first-class mail, postage prepaid, upon each of the following persons:

International Transcription Service, Inc  
1231 20th Street, N.W.  
Washington, DC 20036

Sheryl Todd  
Federal Communications Commission  
Universal Service Branch  
8th Floor  
2100 M Street, N.W.  
Washington, DC 20554

  
Sylvia Chukwuocha